IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.571 OF 2005
(For leave to appeal)

The State of Maharashtra Applicant

vs.

Pandurang Vithal Patil & ors. Respondents

Ms.V.R.Bhonsale, APP for the State.

CORAM : R. M. LODHA &
R. S. MOHITE,JJ.

DATED : 14th February 2005

P.C.

Heard Ms.V.R.Bhonsale, the learned APP.

2. In all 18 accused persons who are arrayed as respondents were put up for trial under Sections 147, 148, 307 read with Section 149, 337 read with section 149, 427 read with section 149 of the IPC and under Section 25(1)(a) of the Indian Arms Act. According to the prosecution case, on 11th June 1995 the accused persons formed an unlawful assembly in prosecution of their common object to attempt to commit murder of Jagdish Narayan Dhumal (PW-1); the accused persons were armed with deadly weapons; they caused damage to houses of the prosecution witnesses and that in the incident PW-1 suffered pellet injuries.

3. The learned Ist Additional Sessions Judge, Raigad, upon consideration of the evidence on record, acquitted all the accused persons. Aggrieved thereby the present criminal application for leave to appeal has been filed by the State.

4. Though as per the prosecution story PW-1 suffered pellet injury and he was taken to the sion hospital for medical treatment, surprisingly, no medical certificate in respect of the injury of PW-1 was produced. In the absence thereof, the evidence of PW-5-Dr.K.T.Suhas was not of much significance and rightly held to be so by the learned Additional Sessions Judge.

5. The prosecution relied upon seizure panchanama (Ex.89). However, it is pertinent to note that vide seizure panchanama (Ex.89) no fire arm was recovered and what was recovered was single parachute and one spear. There is another panchanama (Ex.84) in respect of the search of the house of the accused persons viz., Pandurang Patil and Rajaram Patil. As per the said panchanama (Ex.84), nothing was found in the said house of the aforesaid two persons.

6. The evidence of PW-1 has been found to suffer from inherent inconsistencies and material omissions. The learned APP could not show to the contrary.

7. From the evidence of prosecution it appears that as a matter of fact the houses of accused persons got damaged and not the houses of the prosecution witnesses.

8. All in all, we find that the incident relates to political rivalry. The evidence of the prosecution witnesses is not consistent with each other. The injuries on the person of PW-1 have not been fully established and not supported by medical evidence. Thus, the view taken by the learned trial Judge is possible view. It cannot be said that the impugned judgment suffers from perversity.

9. The impugned judgment does not call for any interference.

10. Criminal application for leave to appeal is, accordingly, rejected.

(R.M. LODHA,J.)

(R.S. MOHITE,J.)